

State of Wisconsin\Government Accountability Board

Post Office Box 7984
212 East Washington Avenue, Third Floor
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

February 17, 2012

Barbara A. Frank, President
Wisconsin County Clerks Association
Jefferson County Clerk
Jefferson County Courthouse
320 S Main Street, Room 109
Jefferson, WI 53549

Ann B. Uecker, President
Wisconsin Municipal Clerks Association
St. Francis City Clerk
4238 S Nicholson Ave
St. Francis, WI 53235

Dear Barb and Ann,

I am writing to you because it has been brought to our attention by some of your members that Senator Scott Fitzgerald sent a letter dated February 13, 2012 to Barb in her role as President of the Wisconsin County Clerks Association stating the Government Accountability Board was working to schedule separate recall election dates for the Senate officeholders and the Governor/Lt. Governor, which would cause significant additional election costs to counties and municipalities. He even provided specific dates for the possible recall elections for Senate officeholders, May 22, 2012; and the Governor, June 5, 2012.

The Government Accountability Board (G.A.B.) has stated from the beginning of this latest round of recall initiatives that if recall elections are ordered, we prefer to have all recall events scheduled for two dates, one primary date and one election date.

We believe this approach is better for the taxpayers because it reduces the costs of conducting multiple elections, and better for the voters because it avoids possible confusion about who is on the ballot and for what office. We also believe it is better for local election officials because you can focus your energy on two possible election events rather than four or possibly more additional election events within a short period of time, and it helps to minimize challenges related to the availability of voting machine memory devices.

The timing of recall elections is specifically prescribed by the Wisconsin Constitution and state statutes. Absent a Court order otherwise, a recall election must be held the sixth Tuesday following a certification of sufficiency of a recall petition. While state statutes permit the G.A.B., the recall committees, and the officeholders the ability to request additional time to review recall petitions and possibly to alter recall election dates, the Circuit Court may not do so without having first found good cause. To date, the Circuit Court has only ordered that the

G.A.B. complete its review of the recall petitions by March 19, 2012 and no orders have established actual recall election dates.

The G.A.B. cannot control for the possibility of primary elections or for the possibility of delays if a determination of sufficiency for any recall petition is challenged in court. A Circuit Court currently has jurisdiction over the recall petition process and we are aware that Governor Walker has already filed a motion requesting even more time to review the recall petition against him and if the Court provides the Governor that relief, it could in and of itself cause separate recall election dates for the Senate officeholders and Governor/Lt. Governor. Our focus is on conducting our review of the petitions and challenges as efficiently as possible. If recall elections are scheduled, we prefer them to be on the same sets of dates because that is what is best for taxpayers, voters and local election officials. Unfortunately, the G.A.B. does not have absolute control over the dates for any recall elections, especially in the context of potential Court orders affecting the recall process and the strict Wisconsin Constitution and state statutory provisions. Anyone believing that they can offer definitive dates for recall elections at this early stage and before the Circuit Court specifically addresses these matters, clearly has not appreciated the complexity of this situation and the rigidity of the constitutional and statutory recall provisions.

We ask that you continue to rely on our direct communications about the scheduling and administration of any recall elections rather than relying on second-hand information or interpretations of the Board's plans or actions. We are planning a G.A.B. meeting for Monday, March 12, 2012 to make some key decisions about the review of the Senate recall petitions. One of those decisions is reiterating our request to hold recall elections of the Senate, if ordered, on the same date as the Governor and Lt. Governor if ordered and assuming that litigation by the recall committees or officeholders subject to the recalls does not impact the timing of any recall elections.

We will keep you apprised as we move forward. Please feel free to contact Nat, Ross or me if you have any questions.

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive, flowing style with a large, prominent "K" at the beginning.

Kevin J. Kennedy
Director and General Counsel
Government Accountability Board